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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,391	07/07/2005	Michael Fink	31606/L50077	1799

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EXAMINER	
SMITH, CHAIM A	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/507,391	FINK ET AL.	
	Examiner	Art Unit	
	CHAIM SMITH	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 December 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-14,16,17,23,26 and 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-14,16,17,23,26 and 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 12, 14, 16, and 23 are rejected under 35 U.S.C. 102(a) as being anticipated by Furlanetto EP 1 271 061.

2. Regarding claim 12, Furlanetto discloses a method for conducting a cooking process in the chamber of a cooking appliance (oven) using a cooking process probe which is to be inserted at least partly into an item being cooked and at least one variable of the item being cooked is detected (core temperature) (paragraph [0008]) at a predetermined point in time (paragraph [0021]). The probes positioning in a standby position in a retaining device or a measuring position can be determined and if non-insertion is detected a first warning signal is emitted (alert) and the change over is made to an emergency program (proper corrective action) (paragraph [0008]). The cooking process probe of Furlanetto is of the contact type in that it is direct contact with the food item and the sensors are mounted within the probe (paragraph [0011]). Since contact temperature sensors use varying voltage or resistance values as their output signals to vary an electric field the non-insertion of a cooking process probe is therefore determined by a change in conductivity or resistance values which are thereby changing the characteristics of an electric field.

3. Regarding claim 14, since Furlanetto discloses that the temperature of the cooking process probe must meet the condition of being less than the temperature of

the cooking chamber or the probe is determined to be not inserted in the item being cooked (col. 5, In 42 - col. 6, In 24) it is therefore inherent that the predetermined point in time is determined as the beginning of the cooking process.

4. Regarding claim 16, Furlanetto discloses that the detecting is carried out over time by forming time derivatives. Further at least one variable (core temperature) of the item being cooked is detected by the probe, a derivative of the variation over time of the detected variable of the item being cooked is determined with respect to time and the derivative is then compared to a set point value (paragraph [0021] – [0022]).

5. Regarding claim 23, Furlanetto discloses a method for conducting a cooking process in the cooking chamber of a cooking appliance using a cooking process probe which is to be inserted at least partly into an item being cooked in the cooking chamber comprising the steps of at a predetermined point in time the non-insertion of a cooking process probe into an item being cooked is monitored (paragraph [0021]) and if non-insertion of the probe is detected a first warning signal is emitted and a change over to an emergency program (modifying and/or correcting) is made (paragraph [0024]).

6. Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by Doi US 4,309,585.

7. Regarding claim 30, Doi teaches a method for conducting a cooking process in a cooking chamber of a cooking appliance using a cooking process probe which is to be inserted into an item being cooked wherein a variable of the item being cooked (temperature) is detected. At a predetermined time (cook start) an automatic monitoring to determine whether the cooking process probe is in a standby position in a retaining

device. The temperature probe of Doi is removably secured to a socket provided in the upper wall of the oven cavity. Said socket is considered to comprise a retaining device. When said probe is plugged into said socket the probe would be considered to be in a standby position. When said probe is unplugged from said socket an alarm is displayed generating an alarm signal thereby determining whether said probe is in a standby position (col. 4, ln 28 – 37).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 12, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furlanetto EP 1 271 061.

10. As set forth above in the rejection under 35 U.S.C. 102(a) Furlanetto discloses all the limitations of claim 12.In the event that claim 12 can be construed as differing from Furlanetto, the cooking process probe is held in a retaining device such that when inserted into said device correctly one of the thermal sensors is fully exposed to the atmosphere of the cooking chamber while the other two of said sensors are thermally guarded against the influence of said atmosphere in said cooking cavity. During the initial phase of the cooking process the temperature detected and indicated by the exposed sensor will be the same as the oven at any given moment while the thermally

guarded sensors will show a much slower increase in temperature and the difference between the three sensors will be well perceivable (paragraph [0012] – [0020]). Further Furlanetto discloses that when the cooking process probe is inserted in the food being cooked one or more time derived conditions will be measured in order to determine said probe is inserted in the food. If the conditions are not met the probe is not inserted in the food or is in the retaining device (paragraph [0023]). It is obvious that Furlanetto is disclosing measuring conditions which would allow the position of the probe to be monitored with respect to said probes position in a retaining device.

11. Claims 14, and 16 are rejected for the substantially the same reasons given above in the rejections under U.S.C. 102(a).

12. Claim 17 differs from Furlanetto in the generation of a warning signal to call on an operator to place the cooking process probe in the retaining device. Furlanetto discloses that based on thermal information provided by sensors within said probe the position of the probe with respect to a retaining device could be determined (paragraph [0012] – [0023]). Furlanetto further discloses that the fact that the probe is not inserted into the food would be used to generate an appropriate signal or indication directed towards the outside (paragraph [0024]). To provide a further warning signal to alert an operator that said probe is not placed in the retaining device therefore would have been an obvious matter of choice and/or design.

13. Regarding claims 26, Furlanetto discloses that all means and modes of data can be displayed as would be known by anyone skilled in the art (paragraph [0029]). If one were to hold the cooking process probe by the portion of said probe containing the

temperature sensors then grasping of said probe would obviously be detected by viewing the display and observing a temperature change.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furlanetto EP 1 271 061 in view of Doi US 4,309,595.

15. Claim 13 differs from Furlanetto in determining whether the cooking process probe is connected to the cooking appliance. In any case Furlanetto discloses a cooking process probe to be used in a cooking appliance (automatic oven) wherein the position of a cooking process probe with respect to said probes insertion or one-insertion into a food item to be cooked is monitored and used to control the cooking process. The temperature related information generated by the probe is required to automatically activate various command and/or actuation functions so that the appliance may be capable of controlling and governing itself. It the process probe were to be unconnected from the cooking appliance it is obvious that the oven would not automatically function, thereby, in effect, monitoring whether said probe would have been connected to the cooking appliance. Nevertheless, Doi discloses teaches a method for conducting a cooking process in a cooking chamber of a cooking appliance using a cooking process probe which is to be inserted into an item being cooked wherein a variable of the item being cooked (temperature) is detected. At a predetermined time (cook start) an automatic monitoring to determine whether the cooking process probe is connected to the appliance is performed and in the probe is not connected a warning signal is emitted (col. 1, ln 23 – 35 and col. 4, ln 28 - 37). Doi is disclosing the monitoring of the connection of a cooking process probe to the

appliance for the art recognized as well as applicant's intended function, that is, to prevent an automatic cooking process from erroneously being engaged. To therefore modify Furlanetto would have been an obvious matter of choice and/or an obvious result effect variable.

16. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doi US 4,309,585.

17. As set forth above in the rejection under U.S.C. 35 102(b) Doi discloses all the limitations of claim 30. In the event that claim 30 differs from Doi, the temperature probe of is removably secured to a socket provided in the upper wall of the oven cavity. Said socket is considered to comprise a retaining device. When said probe is plugged into said socket the probe would be considered to be in a standby position until inserted into an item to be cooked. When said probe is unplugged from said socket an electric characteristic is detected (an open circuit) causing an alarm to be displayed generating an alarm signal thereby determining whether said probe is in a standby position (col. 4, ln 28 – 37). To therefore determine by a change in an electric characteristic whether or not a cooking process probe is in a standby position in a retaining device would have been an obvious matter of choice.

Priority

18. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Examiner's Remarks

19. Applicant is advised that the rejection of claims 12, 23, and the current claims that depend therefrom may possibly be overcome by making of record an English translation of the previously provided foreign priority papers currently of record.

Conclusion

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHAIM SMITH whose telephone number is (571)270-7369. The examiner can normally be reached on Monday-Thursday 7:30-5:00.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. S./
Chaim Smith
Examiner, Art Unit 1794
08 January 2010

/Rena L. Dye/
Supervisory Patent Examiner
Art Unit 1794